

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

JULIA TYSON,

Plaintiff,

v.

CIVIL ACTION NO. 2:19-cv-00813

UNION CARBIDE CORPORATION, and
THE DOW CHEMICAL COMPANY,

Defendants.

ORDER

The Court has reviewed the *Joint Motion to Extend Time to File Reply Brief to Defendant The Dow Chemical Company's Motion to Dismiss* (Document 20), wherein the parties request that the deadline for The Dow Chemical Company to file a reply to the Plaintiff's response to its motion to dismiss be extended to January 24, 2020. The Court has also reviewed the *Plaintiff's Motion for Leave to File Amended Complaint* (Document 19) and proposed *Amended Complaint* (Document 19-1.)

The proposed amended complaint contains new allegations relevant to the grounds asserted in the motion to dismiss. It was filed well within the deadline for filing amended pleadings contained in the Court's *Scheduling Order* (Document 12). Rule 15(a)(2) of the Federal Rules of Civil Procedure encourages Courts to freely grant motions for leave to amend pleadings "when justice so requires." Fed. R. Civ. P. 15(a)(2). "A district court may deny a motion to amend when the amendment would be prejudicial to the opposing party, the moving party has acted in


bad faith, or the amendment would be futile.” *Equal Rights Ctr. v. Niles Bolton Associates*, 602 F.3d 597, 603 (4th Cir. 2010). “Motions to amend are typically granted in the absence of an improper motive, such as undue delay, bad faith, or repeated failure to cure a deficiency by amendments previously allowed.” *Harless v. CSX Hotels, Inc.*, 389 F.3d 444, 447 (4th Cir. 2004).

After careful consideration, finding that the proposed amendment is not prejudicial, motivated by bad faith, or futile, the Court **ORDERS** that the *Plaintiff’s Motion for Leave to File Amended Complaint* (Document 19) be **GRANTED** and that the proposed *Amended Complaint* (Document 19-1) be filed as a new docket entry.

In light of the filing of the amended complaint, the Court **ORDERS** that *Defendant The Dow Chemical Company’s Motion to Dismiss Plaintiff’s Complaint* (Document 8) and the *Joint Motion to Extend Time to File Reply Brief to Defendant The Dow Chemical Company’s Motion to Dismiss* (Document 20) be **TERMINATED AS MOOT**. Responsive pleadings shall be filed within **FOURTEEN (14) days** of the entry of this Order.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: January 15, 2020


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA